IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 26219 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHASUKHBHAI GANDHI & 2 - Petitioner(s)
Versus
MANGAJI PUNAJI THAKORE & 2 - Respondent(s)

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Appearance :
MR BA SURTI for Petitioner(s) : 1 - 3.
None for Respondent(s) : 1 - 2,2.2.1
NOTICE SERVED for Respondent(s) : 3,
MR DAKSHESH MEHTA for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 03/04/2007

ORAL JUDGMENT

1. **RULE**. Learned advocate Mr. Dakshesh Mehta waives service of rule on behalf of the respondent no. 3. At the request of learned advocates the matter is taken up for

final hearing today itself.

2. This petition is directed against the order of the Motor Accident Claims Tribunal, Ahmedabad [Rural] dated 1st March, 2006 on the application submitted in the proceedings of MACP No. 932/1989 whereby the prayer of the petitioners for disbursement of the amount invested in the Fixed Deposit in the Bank of Baroda, Khar Branch, Bombay has been turned down. The petitioners have been granted compensation, out of which Rs.2,41,000=00 in the name of each of the petitioners have been deposited in the aforesaid Bank. The application was submitted to the Tribunal for disbursement, on the ground that the petitioners are aged persons i.e., petitioner no. 1 is aged about 79 years and petitioner no. 2 is aged about 74 years and they would like to make charity of the said amount. The application has been rejected on the ground that the petitioners had not submitted the details about the proposed charity to be done by them.

3. I have heard Mr. Surti learned advocate for the petitioner and Mr. Dakshesh Mehta learned advocate for respondent no. 3. Respondents no. 1, 2 and 2A are the original driver and owners of the offending vehicle. Since the insurance company has been held liable to pay

compensation and in pursuance thereof, it has deposited the amount with the Tribunal, the presence of respondents no. 1, 2 and 2A is not required for the purpose of deciding this application and hence no fresh notice of rule has been issued to them. I have also perused the record of this petition. The impugned order shows that the Tribunal did not have any other objection for disbursement of the amount except that the petitioners had not given any details about the proposed charity. This reason, in my opinion is not a valid reason for which the application could be turned down. It is an admitted fact that the petitioners are the aged persons and they are income tax payers and otherwise also, financially well off. The award amount belongs to them. Considering their old age, and also the term for which the amount is invested, it is not desirable not to accede to the request of the petitioners. Hence, the Tribunal is directed to withdraw the amount from the Fixed Deposit and disburse the same to the petitioners after due verification.

4. The petition is, therefore, allowed. Rule is made absolute to the aforesaid extent.

[Akshay H. Mehta, J.]

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